

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**ADRIAN BUFORD WADE, # 12681,** )  
   ) )  
  Plaintiff, ) )  
   vs. ) )    **Case No. 13-cv-887-JPG**  
   ) )  
**A. LEFLORE,** ) )  
  Defendant. ) )

**MEMORANDUM AND ORDER**

**GILBERT, District Judge:**

This matter is before the Court for case management. On October 2, 2013, a suggestion of death of Plaintiff Adrian Buford Wade (indicating he died on September 11, 2013) was filed by two Defendants in *Wade v. Haida, et al.*, Case No. 13-cv-769-JPG-PMF (Doc. 18 in No. 13-769). The instant case had been severed from that original action on August 22, 2013 (Doc. 1). Wade had been given the option to voluntarily dismiss this case by September 27, 2013, and avoid the assessment of an additional filing fee.

On October 8, 2013, this Court entered an order (Doc. 7) giving leave for Wade's successor(s) or representative(s) to file a motion for substitution within 90 days, pursuant to Federal Rule of Civil Procedure 25(a), and directing the Clerk of Court to mail a copy of the order to "Next of Kin of Adrian Buford Wade" at Wade's last known address. That order further provided that if Wade's successor(s) or representative(s) did not file a motion for substitution, this action would be dismissed, and no filing fee would be assessed.

Rule 25 provides that upon the death of a party, if the claim is not extinguished, there may be a substitution of parties upon a motion made by any party or by the decedent's successor

or representative. FED. R. CIV. P. 25(a)(1). The motion for substitution must be made within 90 days after service of a statement noting the death; if a timely motion is not made, the action must be dismissed. *Id.* Wade's successor(s) or representative(s) have failed to file such a motion within that prescribed time period.

**IT IS THEREFORE ORDERED** that this action is **DISMISSED without prejudice**.

In accordance with the order at Doc. 7, no filing fee is due for this severed case, and this Court's order granting Plaintiff leave to proceed *in forma pauperis* and ordering payments to be deducted from his inmate trust fund account (Doc. 6) is **VACATED**.

The Clerk is **DIRECTED** to mail a copy of this order to the Trust Fund Officer at the St. Clair County Jail.

**IT IS SO ORDERED.**

**DATED:** January 31, 2014

s/J. Phil Gilbert  
United States District Judge